

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 13
)
SARAH E. HENDRIX) CASE NO. 99-71718-MHM
)
Debtor)

ORDER DENYING MOTION TO REOPEN

On August 15, 2005, Debtor filed a *pro se* motion to reopen this case. Debtor filed her Chapter 13 case August 10, 1999. Debtor alleges that her purpose in filing this case was to address the claim of Residential Management, Inc. ("Residential"), a corporation which collects the monthly maintenance fee for the cooperative owners of Debtor's "co-op" apartment located in Forest Hills, New York. By consent order entered July 30, 2002, Residential's claim was allowed as secured in the amount of \$7,000. Residential was paid \$7,000 by the Chapter 13 Trustee over the life of the plan. Debtor asserts that she paid the postpetition monthly maintenance fee by direct payments to Residential. Upon completion of her plan payments, on October 14, 2004, Debtor's discharge was entered and on January 4, 2005, the Order Approving Account, Discharging Trustee and Closing Estate was entered. Debtor seeks to reopen this case because Residential issued a Notice of Default June 15, 2005. Residential asserts in its letter to Debtor that she is in default in the payment of her maintenance fee in the amount of \$14,133.77. Residential threatens to terminate her interest in the residence if Debtor fails to pay the stated amount within the time allowed.

Pursuant to 11 U.S.C. §350(b), a case may be reopened "to administer assets, to accord relief to the debtor, or for other cause." A decision to reopen a case pursuant to §350(b) is within

the discretion of the bankruptcy court. *In re Blossom*, 57 B.R. 285 (Bankr. N.D. Ohio 1986).

In her motion to reopen, Debtor seeks to have this court adjudicate the legitimacy of Residential's post-discharge claim. This court, however, is not the only forum, or even the best forum, to adjudicate what is clearly a payment dispute regarding real property in the state of New York. Debtor completed 60 months of payments to the Chapter 13 Trustee under her plan. Pursuant to 11 U.S.C. §1322(d), Debtor could not be allowed to recommence Chapter 13 plan payments. Thus, this case could not be reopened to administer assets. Debtor may seek relief and resolution of her payment dispute in the state courts of New York or she may commence another case in the bankruptcy court of the jurisdiction in which she resides. Accordingly, it is hereby

ORDERED that Debtor's motion to reopen this case is *denied*.

The Clerk, U.S. Bankruptcy Court, is directed to serve a copy of this order upon Debtor, Debtor's attorney, the Chapter 13 Trustee, the attorney for and Residential Management, Inc., and all creditors and parties in interest.

IT IS SO ORDERED, this the ____ day of September, 2005.

MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE